



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 3931-99

15 May 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were discharged from the Navy on 20 August 1997, by reason of physical disability, with a 10% rating for hyperacusis. On 23 October 1997, the Department of Veterans Affairs (VA) awarded you disability ratings of 10% for hyperacusis and 0% for left shoulder impingement syndrome, exercise induced asthma, right salpingo-oophorectomy, herpes simplex virus, and loss of use of a sexual organ. The VA denied service connection for carpal tunnel syndrome and temporo-mandibular joint disease. On 17 November 1998, the VA added ratings for endometriosis, low back pain, a scar, knee conditions, tonsillectomy, and temporomandibular joint dysfunction, and increased the rating for asthma to 60%, for a combined rating of 70%. It denied service connection for five conditions. The asthma rating was based on the results of a pulmonary function test, which were not reproducible, but which, in the opinion of rating officials, showed a possible severe obstructive defect.

The Board noted that the VA assigns disability ratings to conditions it classifies as service connected, without regard to the issue of fitness for military service. The military

departments rate only those conditions which render the service member unfit by reason of physical disability. Although you suffered from exercise induced asthma during your naval service, your records do not establish that the condition was more than mild prior to your discharge, or that it rendered you unfit for duty. The remaining conditions rated by the VA but not the Navy were productive of no more than minimal impairment, and did not render you unfit for duty.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director